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PATENT

DAE
JW

Attorney Docket No. 061818-5015-US02
(formerly 023070-13092US)
UC Ref. No.: 2001-433-3

to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On March 3, 2005

MORGAN, LEWIS and BOCKIUS LLP

By: Kathryn A. Degliantoni

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Claude F. Meares, *et al.*

Application No.: 10/631,258

Filed: July 31, 2003

For: MULTI-FUNCTIONAL
ANTIBODIES

Customer No.: 43850

Confirmation No.: 1595

Examiner: Fetterolf, Brandon J.

Technology Center/Art Unit: 1642

PETITION UNDER 37 C.F.R. §1.78(a)(3)
TO ACCEPT AN UNINTENTIONALLY
DELAYED PRIORITY CLAIM UNDER 35
U.S.C. §120

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Decision Dismissing the Petition Under 37 CFR § 1.181,
mailed February 3, 2005, Applicants respectfully Petition Under 37 CFR § 1.78(a)(3) to accept
an unintentionally delayed priority claim under 35 U.S.C. § 120.

Please enter the following remarks:

An Amendment to the Specification begins on page 2 of this paper.

Remarks begin on page 3 of this paper.

03/08/2005 HALI11 00000015 500310 10631258

01 FC:1454 1370.00 DA

Amendments to the Specification:

Please replace the first paragraph beginning on page 1, line 4 (below the title, "CROSS-REFERENCES TO RELATED APPLICATIONS" with the following:

[0001] This application is a continuation-in-part of U.S. Patent Application No. 10/625,047, filed July 22, 2003 (Attorney Docket No. 02307O-130910US), Multi-Functional Antibodies) which is a continuation-in-part of U.S. Patent Application No. 10/350,555, filed January 23, 2003, the disclosures of which are herein incorporated by reference in their entirety for all purposes.

REMARKS

*Petition under 37 CFR § 1.78(a)(3) to Accept an Unintentionally Delayed Priority Claim
under 35 USC § 120*

This is a petition to accept an unintentionally delayed priority claim under 35 USC § 120 in the prosecution of the above-referenced application. A petition filed under 37 CFR § 1.78(a)(3) must contain three parts:

- (i) a reference to the prior filed application as required by 35 USC § 120 and 37 CFR § 1.78(a)(3);
- (ii) a surcharge as set forth in 37 CFR § 1.17(t); and
- (iii) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional.

Regarding part (i), Applicants have presented the reference in the form of an Amendment to the Specification on page 2 of this document.

Regarding part (ii), Applicants authorize a charge to Deposit Account No. 50-0310 in the amount of \$1370.00 pursuant to 37 C.F.R. § 1.17(t).

Regarding part (iii), Applicants state the following in support of this petition. A different attorney (Carol Fang of Townsend and Townsend and Crew LLP, ("Townsend")) was responsible for the prosecution of this application until May, 2004. At that time, the file was transferred to Jeffry Mann at Morgan, Lewis & Bockius LLP. Documents updating the power of attorney in this case were filed with the PTO, however Townsend continued to receive correspondence from the PTO. In late October 2004, Morgan Lewis received an updated filing receipt for this application from Townsend. At that time, the missing priority information on the updated filing receipt was noted and a petition to correct priority was prepared. This petition was filed on November 9, 2004.

Morgan Lewis was not directly receiving updates on this application from the PTO during most of 2004. The missing priority information was brought to the attention of the firm in late October, 2004, and a petition to correct was filed with the PTO by early November. Since Morgan Lewis was not directly notified of the priority error, but responded promptly once notification was obtained in October 2004, the delay in petitioning for this claim was unintentional.

CONCLUSION

Since Applicants have complied with all three requirements of a 37 CFR 1.78(a)(3) Petition, Applicants respectfully request acceptance of the priority claim in this application.

If the Director believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-442-1000.

Respectfully submitted,



Todd Esker
Reg. No. 46,690

for Jeffrey S. Mann
Reg. No. 42,837

MORGAN, LEWIS & BOCKIUS, LLP
One Market, Spear Street Tower
San Francisco, California 94105
Tel: 415-442-1000
Fax: 415-442-1001
Attachments



TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/631,258
		Filing Date	July 31, 2003
		First Named Inventor	Meares, Claude F.
		Art Unit	1642
		Examiner Name	Fetterolf, Brandon J.
Total Number of Pages in This Submission	7	Attorney Docket Number	61818-5015-US02 (023070-130920US)

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request (See Remarks) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition Under 37 CFR 1.78(a)(3) to Accept an Unintentionally Delayed Priority Claim Under 35 USC 120 <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <ul style="list-style-type: none">• Return postcard•
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 50-0310.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Morgan, Lewis & Bockius LLP Todd Esker Reg. No. 46,690
Signature	
Date	March 3, 2005

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Kathryn A. Degliantoni		
Signature		Date	March 3, 2005



FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

CONFIRMATION NO. 1595

TOTAL AMOUNT OF PAYMENT (\$) 1,500

Complete if Known

Application Number	10/631,258
Filing Date	July 31, 2003
First Named Inventor	Meares, Claude F.
Examiner Name	Fetterolf, Brandon J.
Art Unit	1642
Attorney Docket No.	061818-5015-US02 (023070-130920US)

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account:Deposit
Account
Number

50-0310

Deposit
Account
Name

Morgan, Lewis & Bockius LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
	-20 =	15	X50			
Independent Claims	-3 =	2	X200			
Multiple Dependent			X			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$1,150)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1,100	2503	550	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1081	250	2081	125	Utility Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	
Other fee (specify) Surcharge for 1.17(t) (Acceptance of an unintentionally delayed claim for priority-					1,370

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)

Todd Esker

Registration No. (Attorney/Agent)

46,690

Telephone

(415) 442-1000

Signature

Date

March 3, 2005